

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

<b>PEGGY BARNETT,</b>	)	
	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	<b>CIVIL NO. 3:06CV103</b>
	)	
<b>JO ANNE B. BARNHART,</b>	)	
<b>Commissioner of Social Security,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

The defendant, Jo Anne B. Barnhart, the Commissioner of Social Security ("Commissioner"), has moved this Court, pursuant to sentence four of 42 U.S.C. § 405(g), to enter a judgment with reversal and remand of the cause to the Commissioner for further action.

Upon remand, plaintiff's claim will be assigned to another Administrative Law Judge ("ALJ"), as the matter was previously remanded and assigned to the same ALJ. *See* HALLEX I-2-1-55(d). The new ALJ will afford plaintiff the opportunity to submit additional evidence, re-evaluate plaintiff's residual functional capacity in light of all impairments found to be severe at Step 2 of the disability determination process, and obtain supplemental vocational expert testimony at another administrative hearing. The new ALJ will then issue a new decision based on the total record.

Pursuant to the power of this Court to enter a judgment reversing the Commissioner's decision with reversal and remand, pursuant to sentence four of 42 U.S.C. § 405(g), and in light of the Commissioner's request to remand this action for further proceedings, and it appearing that plaintiff consents, this Court hereby:

REVERSES the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) with a remand of the cause to the Commissioner for further administrative proceedings. *See Shalala v. Schaefer*, 509 U.S. 292 (1993); *Melkonyan v. Sullivan*, 501 U.S. 89 (1991). The Clerk of Court will enter a separate judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure. As there remains no justiciable dispute pending between the parties, upon the Clerk's entry of judgment, the Court's jurisdiction over this case shall terminate except for purposes of consideration and determination of motions for attorneys fees, including any motion for such fees under the Equal Access to Justice Act (EAJA). Plaintiff shall have thirty (30) days from final judgment in which to file any motion for attorneys fees under EAJA in this matter.

It is so ordered.

Signed: November 20, 2006

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

